

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHNNY RAMEY,

CASE NO. CV-F-05-0228 AWI DLB P

Plaintiff,

ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION
AND REQUIRING PLAINTIFF TO
COMPLY WITH COURT ORDER
OF JULY 7, 2006 WITHIN
THIRTY DAYS

vs.

TRAN, et al.,

Defendants.

[Doc. 23]

Plaintiff is a state prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983. This case was transferred to this Court on February 11, 2005. On April 6, 2005, the Court granted plaintiff's motion to proceed in forma pauperis. On March 13, 2006, the Court recommended that plaintiff's in forma pauperis status be revoked based upon the determination that plaintiff had, on three or more occasions, filed actions that were dismissed as frivolous, as malicious or for failing to state a claim upon which relief may be granted.¹ Thus, the court determined that plaintiff is subject to 28 U.S.C. § 1915(g) and is precluded from proceeding in forma pauperis unless plaintiff was, at the time the complaint was filed, under imminent danger of serious physical injury. The court reviewed

¹ See CV-F-98-5450 AWI DLB P Ramey v. County of Fresno (dismissed on August 20, 1998 for failure to state a claim); CV-F-97-6215 OWW DLB P Ramey v. Sylvester (Defendants' motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) granted on March 29, 1999; motion not treated as a motion for summary judgment); and CV-F-98-6327 OWW SMS P Ramey v. Loo (dismissed on May 25, 1999 for failure to state a claim).

1 plaintiff's complaint and determined that plaintiff failed to allege facts that support a finding that he was
2 under imminent danger of serious physical injury. Thus, the Court determined that plaintiff may not
3 proceed in forma pauperis in this action. Inasmuch as plaintiff was granted leave to proceed in forma
4 pauperis in error, the Court recommended that plaintiff's in forma pauperis action be revoked and
5 plaintiff be ordered to pay the \$250.00 filing fee in full within thirty days.

6 On July 7, 2006, over plaintiff's objections, the District Court adopted the Findings and
7 Recommendations in full, revoked plaintiff's in forma pauperis status and ordered plaintiff to file the
8 filing fee for this action within 30 days.

9 On July 16, 2006, plaintiff filed a motion to reconsideration of the Order adopting the Findings
10 and Recommendations.

11 To succeed on a motion for reconsideration, a party generally must set forth facts or law of a
12 strongly convincing nature to induce the court to reverse its prior decision. Cf. Fed. R. Civ. Pro. 60
13 (governing motions for reconsideration of final orders and judgments); Local Rule 78-230(k) (governing
14 motions for reconsideration of orders resolving motions). Plaintiff has set forth no arguments that
15 convince the court that its order of July 7, 2007 should be set aside. Plaintiff has set forth no additional
16 facts establishing that he is under imminent danger of serious physical injury or any other reason why
17 he is not subject to 28 U.S.C. § 1915(g).

18 Plaintiffs motion for reconsideration of the Court's July 7, 2006 Order is HEREBY DENIED.
19 In light of this order, plaintiff shall have thirty days from the date of service of this order in which to pay
20 the \$250.00 filing fee. If plaintiff fails to pay the filing fee within 30 days, this action will be dismissed.
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23 IT IS SO ORDERED.

24 Dated: March 19, 2007
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/s/ Anthony W. Ishii
UNITED STATES DISTRICT JUDGE

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